

**MINUTES
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JULY 27, 2018
TIME: 9:15 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Stanley Roehrig
Chris Yuen

Tommy Oi
Keone Downing
Sam Gon

STAFF

Russell Tsuji-Land
Maria Carnevale-DAR
Carlton Helm-DOCARE
Curt Cottrell/Parks

Dave Smith-DOFAW
Luna Kekoa-DOCARE
Carty Chang-ENG

OTHERS

Cindy Young/AG
Ross Smith/DOTA
Dre Kalili/DOTH
Jeremy Macomber/D3
Brian Bowen/F2
Kaala Buenconsejos/M9 & M10
Dr. Randy Kosaki/F1
George Burnet/M8

Jennifer Jasper/D1
Tom Summers/D1
Elizabeth Ishii/D1
Randy Kosaki/F1
Keolohilani Lopes/F3
Theo Morrison/M10
Don Couch/D4

Chair Case called the meeting to order at 9:21 a.m. and announced that the following are being **WITHDRAWN** from today's agenda: **ITEM C-3, ITEM J- 1 & ITEM J-5**

Member Gon read the Contested Case statement.

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Randall Kosaki, National Oceanic and Atmospheric Administration, Papahānaumokuākea Marine National Monument, for Access to State Waters to Conduct Surveys of Deep Coral Reefs.

Maria Carnevale, Division of Aquatics, presented the submittal, Dr. Kosaki is here to answer any questions.

Board Discussion

Member Gon asked if they were going to do any re-breather diving? Carnevale said yes.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous.

ITEM F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Brian Bowen, University of Hawai'i, Hawai'i Institute of Marine Biology, for Access to State Waters to Conduct Genetic Survey Activities.

Maria Carnevale, Division of Aquatics, presented the submittal. Dr. Bowen is present to answer any questions the Board may have.

Board Discussion

Gon asked what the preliminary results were. Dr. Bowen said this study has been going on for 10-years. The study is to look at the connectivity of the shallow reefs and the deep reefs. You find large ulua in the deep reefs and we want to study the effects they have on replenishing the shallow reefs. The Monument may be a resource to replenish the main Hawaiian Islands.

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Oi) unanimous.

ITEM F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Education Permit to Mr. Keolohilani Lopes Jr., Joint Institute of Marine and Atmospheric Research/PMNM, for Access to State Waters to Conduct Filming and Photography Activities.

Maria Carnevale, Division of Aquatics, presented the submittal. Keo Lopes, is present to answer questions

Board Discussion

Downing asked if DAR had a videography of filming that has occurred at the Monument. Carnevale said they do not have the capacity to house all the materials. Keolohilani Lopes introduced himself and said the video would be loaded onto their server.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

- ITEM M-1** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Pacific Air Charters, Incorporated, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 20.
- ITEM M-2** Issuance of a Revocable Permit for Equipment Parking, Qantas Airways Limited, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066 (Portion).
- ITEM M-3** Issuance of a Revocable Permit for Storage and Maintenance of Aircraft, Mark S. Hewitt, Kawaihapai Airfield, Waialua, Hawaii, Tax Map Key: (1) 6-8-14-001 (Portion) and (1) 6-08-014:018 (Portion).
- ITEM M-4** Issuance of a Revocable Permit for Aircraft Parking, Sky-Med, Inc. dba Pacific International Skydiving Center, Kawaihapai Airfield, Waialua, Hawaii, Tax Map Key: (1) 6-08-14:001 (Portion).
- ITEM M-5** Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, EAN Holdings, LLC, Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ross Smith, DOT- Airports, presented **Items M-1 through M-5** consecutively.

Board Discussion

Item M-5: Oi asked if they are using the area already? Smith said, part of it is and this is a new permit.

Public Testimony-None

MOTION

Approved as submitted ITEMS M-1 THROUGH M-5 (Oi, Gon) unanimous.

- ITEM M-7** Issuance of a Month-to-Month Revocable Permit to Grace Pacific LLC at Kalaeloa, Barbers Point Harbor, O'ahu, Tax Map Key: 1-9-14:26 (Por.)

Dre Kalihi, DOT-Harbors, presented the submittal and made a correction to change the word annual to monthly payment.

Board Discussion-None

Public Testimony- None

Amendment:

Consideration: change annual payment to say monthly payment of \$42,481.31.

MOTION

Approved as amended (Gon, Oi) unanimous.

ITEM M-9 Consent to Lease of Lands under Governor's Executive Order No. 854 to Maui In-Line Hockey Association, Inc., Kamole, Kula, Maui, Tax Map Key: 2-3-9-005:052 (Portion).

ITEM M-10 Consent to Lease Lands under Governor's Executive Order No. 16, Tax Map Key: 2-6-001:009, and Executive Order No. 80, Tax Map Key: 2-4-6-001:001 (Portion) to the Lahaina Restoration Foundation. Lahaina, Maui.

Kaala Buenconsejo, County of Maui, Parks and Recreation presented Items M-9 and M-10.

Board Discussion

Case noted that in both of the Leases on the signature page, there is a signature line for the Chair's signature and the Attorney General's office advised that for Items that are not DLNR is not a party to, that I not sign the lease. You may note it in your records.

ITEM M-9: Downing asked how are you justifying \$100.00 rent amount? Buenconsejo replied it was something that was passed on and they are working on it.

Yuen commented that this is an EO to the County so our rates for non-profits does not apply. It is up to the County to be consistent with themselves.

ITEM M-10: Yuen noted we received testimony opposing this lease or asking for a deferral. Buenconsejo said, the Lahaina Restoration Foundation has been their steward for that property. We have had difficulty with vending and craft fairs with the Banyan Tree area. From a Parks standpoint, our best bet in maintaining it would be a partnership with Lahaina Restoration Foundation who oversees the Historical District there. To put the governance under them helps us monitor what goes on down there since they are done there on a daily basis. They already manage the Courthouse as well as some other areas within that historic district.

Yuen asked if the vendors have permits? Buenconsejo replied they have certain dates they can sell things.

Downing noted that our Board Member from Maui has questions asked to defer this until he the questions he wants to pose can be answered.

Public Testimony

M-10: Theo Morrison, Lahaina Restoration Foundation, noted they were a 501C non-profit, presented a PowerPoint that provided slides of the buildings they have restored and the mission of the foundation and how they maintain the Historic District through grant funding.

Amendment to Items M-9 and M-10:

Note in Recommendation that the Board Chair will not be signatory on the County Leases.

MOTION

M-9 APPROVED AS AMENDED (Roehrig, Oi)

M-10 DEFERED (Downing, Roehrig) unanimous.

ITEM D-3 Consent to Lease of Lands to Mohouli Senior Phase 3-92 LLLP, Amendment of Lease to Hawaii Island Community Development Corporation and Declaration and Confirmation of Easements under Governor's Executive Order No. 4224 to County of Hawaii, for Elderly and/or Affordable Rental Housing and Related Purposes. Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-4-001: portion of 184.

Russell Tsuji, Land Division, presented the submittal and had nothing else to the submittal, County representative is present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gon)

ITEM D-1 Affirm Board's Prior Action of July 13, 2018, Item D-1, as amended, which amended Board's Prior Action of April 28, 2017, Item D-2, *Set Aside and Immediate Management Right-of-Entry Permit to County of Kauai for Affordable Housing, Por. of Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-5-008:008.*

The purpose of the affirmation is to acknowledge: 1) The change in the intended use of the set-aside from Affordable Housing purposes to Community Needs and Social Services purposes; 2) The inclusion of Tax Map Key: (4) 4-5-008:009 in the set-aside; and 3) The prior Authorization to Grant an Immediate Management and Construction Right-of-Entry, as applied to the amended purpose of the set-aside, to the County of Kauai, its Consultants, Contractors, and/or Persons acting for or on its behalf.

Russell Tsuji, Land Division, explained that they were bringing this back to the Board to reaffirm the Right of Entry to the County. We need assistance from the County to help clean it up.

Board Discussion

Case noted in the submittal that the language of the submittal still has in recommendation number (2) the set-aside which was covered in the last meeting. Tsuji clarified that should be deleted and it should be only recommendations numbers (1) and (3).

Oi noted that today, we are reaffirming the Right-of-Entry, which was changed for immediate management and construction, they can demo one of the old buildings. Tsuji confirmed that they plan to demo one building and repair the other.

Public Testimony

Jennifer Jasper, commented that she was here (3) years ago to discuss this area. Was not happy with the proposed use. She noted that originally it was slated for affordable housing and now the use has changed to community services. It appears that the homeless is still going to be a problem. She has been victimized by people that frequent the area and she is traumatized by all the vandalism and issues there. She cannot even live there anymore. Yes, there are bones all over the property that need to be dealt with. She is frustrated and unable to deal with drug addition, mental illness and drinking that happens right in-front of her. She vented her frustration with the County and State with non-action. She requested a contested case.

Case noted that she will need to follow-up in writing. Case asked what her interest is in requesting a contested case? Jasper replied she lives next door.

Yuen made a motion to go into Executive Session to consult with our Attorney over the legal matter over the entitlement of a contested case for Item D-1. Downing second the motion.

10:20 am: Executive Session

10:55 am: Back in Session

Yuen made a motion to deny the request for a contested case on advice from Counsel. This not the type of matter that one can get a contested case hearing on. The only thing before the Board today is to clarify and reaffirm the Right-of-Entry of the County, which would allow them to take control of the property right away and not the question of the change in use of the Executive Order which was voted on and passed by the Board at the July 13, 2018 meeting.

Case added that the decision was already made, this is just about the Right-of-Entry, moving the solution forward to allow the County to go in and start what they need to do to clean this up. Everyone is sympathetic to your challenge and this is designed to be a solution to improve the situation.

Oi, second the motion. The motion passed to deny the contested case. Unanimous.

Continuation of Public Testimony

Tom Summers, would like to see the area used for parking as Kapaa town lacks the space. He felt the highest and best use would be a parking lot. They have (16) churches in the community already. They found 14 burial sites pointed in the same direction. I let them put the sand in my lot when the people came to sift through the sand and remove every bone they could find. The area is so bad that the tourists do not even want to go in to the restrooms there. The homeless people are not going to come here for help. They want to stay on the beach.

Downing said that as a State that changed it from affordable housing to community needs and social service purposes is a chance for you to get into the County, because it is going to be the County's prerogative. If it is community needs they are getting this set-aside for, that is the best vehicle for you folks as a community to talk to the people to figure out what you need to do.

Summers said no one in the community knew about this until I found out. Downing commented that you need to talk to the County about your community needs.

Oi noted that by us turning it over to the County for community purposes, you can go talk to the County about what the community needs are. If we stall the Right-of-Entry here, to tear down the building. The buildings are still going to be there. We will not solve anything.

Summer said he agreed with that to give them the access to remove the building. Oi noted that in a few months we are going to have a new Mayor. Then the Kaapa Business Association can talk to them. Summer asked if anything was set in stone? Case said from what they heard it was for community services purposes.

Oi said we are going in the right direction by giving the County the Right-of-Entry to tear down the building is the right direction to go. If nothing is done here, and we stall it nothing gets done.

Gon said to contact the County representative. Roehrig also read paragraph (2) the language is general, that the purpose of the affirmation is to acknowledge the change in the intended use from affordable housing to community needs and social service purposes. It is subject to interpretation what the community needs. What would be beneficial is to talk to the Mayor. Roehrig noted that you will have a new one shortly. He encouraged Jasper to talk to the Mayor as well and tell him what you told us. The Board sympathizes for all she went through.

Elizabeth Ishii, Counsel to Jennifer Jasper, commented that there was no notice to the people who live in the community regarding change of use and finds that problematic. She has two concerns, she does not know what the County thinks it can do, that it has not been able to do up to now with the problems there. There was further discussion on the process of working with the County to address the community concerns.

Amendment:

Strike recommendation No. 2, and add a requirement that the County submit to the Department a reasonable timeline for the demolition of the house structure.

MOTION

Approved as amended (Oi, Yuen) unanimous.

ITEM D-4 Cancellation of Revocable Permit No. S-7863 to Kaupo Community Association, Inc., and Approval of 55-year Lease of Lands to the Kaupo Community Association, Inc. Pursuant to Governor's Executive Order No. 4544 to County of Maui, for Community Center and Ancillary Purposes, Kumunui, Kaupo, Hana, Maui, Tax Map Key: (2) 1-7-002:015.

Russell Tsuji, Land Division. Explained that they have an EO, but under an RP. Mentioned that Chair will not be signatory to Lease.

Board Discussion-None

Public Testimony

Don Couch, Maui County, asked to be clarified the State's position on not signing the County Lease. Case commented that what the State is doing is to make sure the County has all the authorization they need without having to make the Board a party to the Lease itself. We are approving the issuance the Lease.

Amendment:

Chairperson will not be a signatory Maui County's lease to KCA.

MOTION

Approved as amended (Roehrig, Oi) unanimous.

ITEM M-8 Request Approval to Execute an Agreement with Verizon Wireless to park and operate a trailer mounted Cellular Radio Base Station with antenna at the HI-EMA Operating Support Center (B303) warehouse located at the Diamond Head State Park Monument, Honolulu, Hawaii, Tax Map Key: 1-3-1-042-006.

George Burnet, Hawaii Emergency Management Agency presented the submittal. They are willing to provide the service at no cost to us. The only cost to us is phones that use the service inside Diamond Head Crater. Without this tower, you do not have cell service in certain areas of the Crater. This will give us 24-hour service. Prior to this propose we would have to request to have a cell tower brought in.

Board Discussion

The Board felt that it was not necessary in the future to bring to back to the Board

Public Testimony-None

Amendment:

***Authorize Division annual renewal, and bring back to the Board as necessary;
Encourage Verizon Wireless to enter roaming agreements so it can be used by other carriers***

MOTION

Approved as amended (Roehrig, Gon) unanimous.

ITEM B-1 Request for Authorization to Enter into a Use and Occupancy Agreement with the University of Hawaii, for use of the Marine Education Training Center to conduct the DOCARE Training Purposes.

Carlton Helm and Luna Kekoa, Division of Conservation and Enforcement presented the submittal. The training academy involves candidates hired at the entry level which would provide a critical component in getting candidates knowledgeable in Natural & Cultural resources. This program will immerse law enforcement officers with DLNR managing agencies focusing on enhancing, protecting, conserving, and managing Hawaii's unique resources. Partnering with UH allows for college credit to push their education as well. The idea of lateral training is to get people trained in law enforcement, a deeper understanding and training in conservation and natural resources. The entry level is for those who want to make Conservation and Natural resources a career path.

Board Discussion

Roehrig said we want our DOCARE Officers to be first class. Law Enforcement has major responsibilities to take care of the land and the people

Cindy Young clarified the Use & Occupancy agreement, Cost per day use. The attachment is still under negotiations.

Public Testimony-None

Amendment:

- 1. The Use & Occupancy agreement to be revised;***
- 2. Cost of \$330.00/per day is in negotiations;***
- 3. Authorize the Chairperson to negotiate and sign the Use and Occupancy Agreement with UH to use the Marine Education Training Center for DOCARE training purposes subject to the Department of the Attorney General's approval. Authorize the Chairperson to sign any amendments to the Use and Occupancy Agreement subject to the Department of the Attorney General's approval.***

MOTION

Approved as amended (Roehrig, Gon) unanimous.

- ITEM L-1** Authorize the Approval and Issuance of the Dam Safety Permit No. 59 for the Repair and Improvements to the Waikoloa Reservoir No. 1 (HA-0040) - Waimea, Hawai'i, Tax Map Keys: (3) 6-5-001:047, and (3) 6-5-1:11.

Carty Chang, Engineering presented the submittal. It has taken 10-years to get to this point.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gon)

- ITEM L-2** Appointment of Charlie White to Serve as a Director of the Mauna Kea Soil and Water Conservation District.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Oi)

- ITEM D-2.** Sale of Remnant (abandoned ditch) to Yuliya V. Burko, Kapaa Homesteads, 4th Series, Kawaihau, Kapaa, Kauai, Tax Map Key: (4) 4-6-024: Portion of 123.

- ITEM D-5** Issuance of Right-of-Entry Permit to Linda Morgan for Welcome to Maui Reception Party Purposes, Uluniu Beach Reserve, Kula Makai, Maui; Tax Map Key: (2) 3-9-009: 011 por.

- ITEM D-6** Amendment of Prior Board Action of July 28, 2017, Item D-3, which amended the Board's Action of June 25, 1999, Item D-6, *Set Aside of Government Land for the Issuance of an Executive Order to the Department of Transportation, Airports Division, Island of Lanai, Tax Map Key: (2) 4-9-002: Portion 01.*

The purpose of the Amendment is to: (i) Update the Tax Map Parcel numbers for the Lanai Airport to Tax Map Keys: (2) 4-9-002:041, 055, 056 and 059 ("Lanai Airport Parcels"), (ii) Request the Cancellation of three existing Executive Orders

previously setting aside lands for Lanai Airport (Executive Order Nos. 1248, 1279 and 2211), (iii) Authorize the set-aside of all of the Lanai Airport Parcels to the Department of Transportation–Airports Division (“DOT-Airports”) via a new Executive Order, and (iv) Authorize the Issuance of Management Right-of-Entry Permit to DOT-Airports for a portion of Lanai Airport pending the issuance of a new Executive Order.

The purpose of the current amendment is to add Lot 747 to Lanai Airport and increase the area from 505.031 acres to 507.795 acres, more or less.

Russell Tsuji, Land Division presented **Items D-2, D-5 and D-6** consecutively. He had nothing else to add to the submittals and will answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items D-2, D-5 and D-6 (Roehrig, Gon) unanimous.

ITEM C-1 Approval of updated *Standard Operating Procedures for Helicopter Operations* for all line Divisions of the Department of Land and Natural Resources (except the Division of Conservation and Resources Enforcement).

Board Discussion

Roehrig commented that there are issues relating to helicopters flying over residential areas which is a very sensitive issue. Smith replied that they hold the helicopter operators to the highest standards and have no reason to fly over residential areas.

Roehrig and Case both agreed that flying over the ocean rather than the residential areas is the preferred route so as not to be a noise nuisance.

Public Testimony-None

MOTION

APPROVED AS SUBMITTED (Gon, Roehrig) unanimous.

ITEM C-2 Request for Delegation of Authority to the Chairperson to Solicit Offers, Award, Execute, Amend, and Extend a Contract(s) under the Competitive Sealed Proposal process for Cultural Impact Assessments written for Statewide Field Releases of Biological Control Agents *Syphraea uberabensis*, *Pseudophilothrips ichini*, and *Euselasia chrysippe*.

Board Discussion

Roehrig asked who does the testing? Smith replied that they are tested by USDA in a lab in Hilo. There was a brief discussion on the different types of biological control agents with Rob Off

Public Testimony-None

MOTION

Approved as submitted (Gon, Yuen) unanimous.

Gon made a motion to adjourn, and Roehrig seconded the motion. Unanimous.

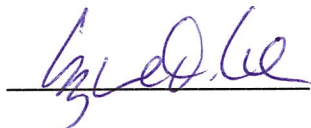
There being no further business, Chairperson Suzanne Case adjourned the meeting at 12:35 pm. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land & Natural Resources